

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARK RANNEY,

Plaintiff,

vs.

UNION PACIFIC RAILROAD COMPANY,

Defendant.

8:18CV59

MEMORANDUM AND ORDER

This matter is before the Court on defendant Union Pacific Railroad Company's ("the Railroad") motion to strike, [Filing No. 60](#), and renewed motion for a stay, [Filing No. 63](#). The plaintiff has filed no response to the motion to strike but has objected to the motion to stay. [Filing No. 63](#).

The Railroad moves to strike the plaintiff's claim for breach of the Locomotive Inspection Act ("LIA"), 45 U.S.C. § 20701 *et seq.* It contends the plaintiff did not claim a violation of the LIA in its complaint, nor include it in answers to interrogatories filed in this case. [Filing No. 61](#), Index of Evid. The plaintiff has not controverted that contention. The Court finds that, although the statute is mentioned in the plaintiff's complaint, there are no allegations of any violations of the LIA. Accordingly, the motion will be granted and the plaintiff's claim for a violation of the Locomotive Inspection Act will be stricken as a controverted fact in the Pretrial Order. [Filing No. 59](#).

This matter is presently set for trial on December 3, 2020. In its motion for a stay, the Railroad asks that the trial of this matter be continued pending resolution of the appeal of a related case involving the same expert witness. This Court earlier denied a similar motion. [Filing No. 56](#). For the reasons stated in the Court's earlier order, and for the

further reason that the Court is informed that a General Order suspending jury trials for the month of November 2020 because of the increasing COVID-19 cases in this district will be extended beyond the date this action is set for trial, the motion to stay will be denied. The Court will reschedule the trial in light of these circumstances. Accordingly,

1. The defendant's motion to strike ([Filing No. 60](#)) is granted.
2. The plaintiff's claim for a violation of the Locomotive Inspection Act is stricken from the Pretrial Order.
3. The defendant's renewed motion for a stay ([Filing No. 63](#)) is denied.
4. Trial of this matter is continued to March 23, 2021 at 8:30 a.m. in Courtroom 3, Roman Hruska Federal Courthouse, Omaha, Nebraska.
5. The Pretrial Order is modified as follows:

The parties will exchange final exhibits on or before March 9, 2021;

The parties will provide the Court with a final joint exhibit list on or before March 16, 2021;

Motions and briefs in limine shall be filed on or before March 2, 2021;

Trial briefs and proposed jury instructions shall be filed on or before March 9, 2021.

Dated this 12th day of November, 2020.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge